

CHAPTER 648 Nuisances

EDITOR'S NOTE: This chapter, previously a codification of Ordinance 81-03, passed March 16, 1981, was re-enacted in its entirety by Ordinance 85-08, passed May 90, 1985.

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CROSS REFERENCES

Dog nuisances - see GEN. OFF. 612.19
 Weeds and grass - see GEN. OFF. Ch. 690
 Dog kennels - see B. R. & T. 808.08
 Solid waste storage, collection and disposal - see S.U. & P.S.
 Ch. 1080 et seq.
 Accumulation of waste materials - see F.P. 1652.08
 Littering in parks - see S.U. & P.S. 1092.17

648.01 PURPOSE.

The purpose of this chapter is to promote the public health, safety and welfare of residents of the County, and to provide for the removal and abatement of unhealthy, noxious, dangerous and hazardous substances and conditions, at private expense. (Ord. 85-08. Passed 5-20-85.)

648.02 APPLICATION OF CHAPTER.

Various nuisances are defined and prohibited in other chapters of these Codified Ordinances, and it is the intent of the Board of Supervisors, in enacting this chapter, to make it supplemental to those other chapters in which nuisances are defined and prohibited. The provisions of this chapter relating to the abatement of nuisances shall be regarded as alternative methods and procedures for the abatement of nuisances in those instances where other methods and procedures for abatement are provided. (Ord. 85-08. Passed 5-20-85.)

648.03 DEFINITIONS.

As used in this chapter:

- (a) Agricultural Operation. "Agricultural operation" means any operation devoted to the bona fide production for sale of crops, animals and fowl, including the production for sale of fruits, vegetables, meat, dairy and poultry products, nuts, tobacco, nursery and floral products, and trees in such quantity and so spaced and maintained as to constitute a forest area.
- (b) County Administrator. "County Administrator" includes his or her designee.
- (c) Director of Public Health. "Director of Public Health" includes his or her designee.
- (d) Emergency Situation. "Emergency situation" means any situation involving a hazardous condition, nuisance or obstruction wherein there exists a reasonable possibility of imminent or immediate danger or harm to the public health, safety or welfare, or to any individual.
- (e) Hazardous Condition. "Hazardous condition" means any condition in which it is reasonably foreseeable that a hazardous substance, as defined in this chapter, may be stored, handled, transported or used in such a manner as to proximately cause substantial personal injury or substantial illness as a result of such reasonably foreseeable handling, transportation, use or storage.
- (f) Hazardous Substance. "Hazardous substance" means and includes any toxic, radioactive, flammable, corrosive or otherwise dangerous chemical, poison, gas, element, mineral or other substance or combination or mixture of substances.
- (g) Nuisance. "Nuisance" means anything unwholesome, dangerous, offensive or unhealthy, which constitutes a menace to the health and safety of the public, or any structure which, due to a structural defect or dilapidation, has become dangerous to life or property.
"Nuisance" includes, but is not limited to:
 - (1) Unsanitary disposal of trash, garbage, debris, construction wastes or compost;
 - (2) Unburied dead animals;
 - (3) The accumulation of water causing mosquito or other vector breeding or proliferation;
 - (4) Rodent or insect infestation;
 - (5) The accumulation of bees, fowl, bats, wasps or other venomous pests or animals in such a manner as to create a condition that may be injurious to the public health or safety;
 - (6) Hazards, such as open excavations, open wells, pits, trees or parts thereof in danger of falling, discarded refrigerators and freezers with doors attached, unsecured vacant structures or habitation for bats, wasps or other venomous pests;
 - (7) Allowing bird infestation within a dwelling or bird roosts accompanied by droppings in such quantities that create conditions conducive to an unhealthful or disease causing condition; and
 - (8) Maintaining a property in such a manner that it creates conditions conducive to rodent harborage and is an annoyance or potential health hazard to neighbors.

- (h) Obstruction. "Obstruction" means any wharf, pier, piling, bulkhead, bridge or any other structure or vessel, or any collection of timber, silt or debris caused by such wharf, pier, piling, bulkhead, bridge, structure or vessel, which endangers the public health or safety of other persons, or which constitutes an obstruction or hazard to the lawful use of the waters in or adjoining the County.
- (i) Owner. "Owner" means and includes both the owner or part owner of property on which the hazardous condition, nuisance or obstruction is located, and the occupant or lessee of such property if the property is leased, where such occupant or lessee is responsible, in whole or in part, for creating or maintaining the hazardous condition, nuisance or obstruction. The legal owner of such property shall, in all events, be responsible for the cost of removing, repairing, abating or obviating such hazard, nuisance or obstruction, and, where applicable, a lessee or occupant shall share mutual responsibility with the owner for such costs.
- (j) Person. "Person" means and includes any individual, partnership, firm or corporation. (Ord. 85-08. Passed 5-20-85.)

648.04 NUISANCES PROHIBITED.

No person shall cause, harbor, commit or maintain, or suffer to be caused, harbored, committed or maintained, any nuisance, as defined by the statutes or common law of this State or as defined by this chapter or any other ordinance of the Board of Supervisors, at any place within the County. (Ord. 85-08. Passed 5-20-85.)

648.05 INSPECTIONS.

The County Administrator and the Director of Public Health are hereby authorized to inspect occupied or vacant land or premises to ascertain the existence of nuisances on such land or premises. The County Administrator or Director shall inspect the land or premises at reasonable daylight times in a reasonable manner and in compliance with all applicable provisions of law. If the owner or occupant of the land or premises refuses or denies access for such purpose, an inspection may be had upon issuance of an administrative search warrant by a magistrate or judge. (Ord. 85-08. Passed 5-20-85.)

648.06 NOTICE TO CEASE AND DESIST.

If, at any time, the County Administrator or the Director of Public Health finds that an activity or practice which constitutes a nuisance is occurring within the County, he or she shall promptly, and by the most expeditious means, notify the violator to cease and desist forthwith. (Ord. 85-08. Passed 5-20-85.)

648.07 NOTICE TO ABATE; APPEALS

If, at any time, the County Administrator or the Director of Public Health finds that a condition which constitutes a nuisance exists within the County, he or she shall give notice in writing to the owner of the premises upon which such condition exists, stating therein the condition which constitutes a nuisance and directing such addressee to remedy the condition within the time stated in such notice, which time shall be not more than ten days. No such owner shall fail to comply with the terms of such notice. Further, if the County Administrator or the Director of Public Health states in such notice that the condition which constitutes a nuisance is such as to be an imminent hazard to the health, safety or welfare of the public or any person within or near the premises upon which such nuisance exists, then the addressee shall comply with the terms of such notice forthwith.

The Director or the County Administrator may take reasonable steps to abate, correct or eliminate the condition only after providing the owner or occupant of the land or premises a notice of the violation and an opportunity to be heard, unless Section 648.10 is applicable. Such hearing request shall be made within ten days after receipt by the owner or occupant of the notice to abate, correct or eliminate the condition. In the case of an emergency, the Director or the County Administrator may take reasonable steps to abate, correct or eliminate the condition without providing the owner or occupant of the land or premises an opportunity to be heard until after the condition is abated, corrected or eliminated. In such an emergency the hearing request shall be made within ten days after the condition is abated, corrected or eliminated. All hearing requests shall be in writing and directed to the County Administrator or to the Director, who shall forward the requests to the County Administrator within two days of receipt thereof. All hearings shall be before the County Administrator or his or her designee. The County Administrator shall set a time and place for the hearing, which shall occur within ten days of the request for the hearing, and shall so notify the Director and the appellant. The appellant may call witnesses, cross-examine opposing witnesses, present testimony and other evidence in his or her behalf and be represented by counsel, at his or her own expense, at such hearing. After the hearing, the County Administrator may order the appellant to abate, correct or eliminate the condition in the same manner as the Director may require if he or she finds that a nuisance or other violation of this chapter exists and was caused or permitted to be caused by the appellant. No person shall fail, refuse or neglect to comply with any such order.
(Ord. 85-08. Passed 5-20-85.)

648.08 NONCOMPLIANCE WITH NOTICES; RECOURSE OF COUNTY.

(a) Upon the failure of any person to whom notice has been given, pursuant to Section 648.07, to comply with the terms of such notice, or with the terms imposed by the Board of Supervisors on appeal, as the case may be, the County Administrator or the Director of Public Health shall forthwith direct the appropriate County officer to remedy the condition which is the subject of such notice, and the expense incurred by the County in so doing shall be charged to the addressee of such notice, to be collected in the same manner as County taxes or in any other manner authorized by law. Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property, and such lien shall be recorded in the judgment lien docket book in the Clerk's office of the Circuit Court.

(b) Abatement by the County of any condition which constitutes a nuisance and reimbursement to the County of expenses incurred thereby shall not bar prosecution for maintenance of a nuisance. (Ord. 85-08. Passed 5-20-85.)

648.09 UNKNOWN OR UNLOCATED OWNERS.

If the County Administrator, after a reasonable search, is unable to identify or ascertain the whereabouts of the lawful owner of property on which an obstruction exists, and after the notice and order required by Section 648.07 have been sent to the last known post office address of such owner, if known, the County may undertake to repair or remove such obstruction after giving notice by publication once each week for two weeks in a newspaper of general circulation in the area where such property is located. (Ord. 85-08. Passed 5-20-85.)

648.10 SUMMARY ABATEMENT.

In addition to the other remedies prescribed by this chapter, if it is determined that a hazardous condition, nuisance or obstruction is likely to have an immediate adverse effect upon public health or safety, then the County Administrator may order such condition to be summarily abated, by the County, in a reasonably prudent manner. (Ord. 85-08. Passed 5-20-85.)

648.11 AGRICULTURAL OPERATIONS.

No agricultural operation or any of its appurtenances shall be considered a nuisance unless such nuisance results from the negligent or improper operation of any such agricultural operation or its appurtenances. (Ord. 85-08. Passed 5-20-85.)

648.12 INTERPRETATION.

The remedies, procedures and causes of action provided for in this chapter shall be in addition to, and not in lieu of, all other remedies, procedures and causes of action provided for by statute or general law. (Ord. 85-08. Passed 5-20-85.)

648.13 EXEMPTIONS.

This chapter shall not apply to any land within any A-3 or A-10 Zoning District under the County Zoning Code. (Ord. 85-08. Passed 5-20-85.)